



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,824	01/10/2002	Robert W. Arnold JR.	4620-00006	8046
26753	7590	05/03/2005		
ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202				
			EXAMINER GORDON, BRIAN R	
			ART UNIT 1743	PAPER NUMBER

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

10

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/044,824

Applicant(s)

ARNOLD ET AL.

Examiner

Brian R. Gordon

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: continued on next page. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 5-11, 13, 17-21.
Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Note: The new claims now reference an arrangement of a plurality of tiers not previously claimed nor required of the previous claims. While claim 22 refers to the stacked tier arrangement, the arrangement is not positively claimed. The examiner suggests amending the first element to read "a plurality of stacked tiers of pipette tip arrays, wherein the tips each have....". The claim also refers to a pipette holder rather than pipette tip holder which is not positively claimed. The preamble of claim 22 (and all other occurrences) should be amended to recite pipette tip holder, and furthermore, the claim should be amended to positively claim the pipette tip holder, such as amending the claim (paragraph 2) to reada shoulder, and a pipette tip holder having...the transfer element should be claimed as ...a transfer plate in each tier having.....the paragraph of claim 22 directed to the support structure should be amended to recite....the underside of each transfer plate and engageable... the claim should be also amended to recite.... a push plate adapted to overlie a transfer plate....the last line should be amended to recitethe tip support position in the respective openings of the pipette tip holder. Step 1 of claim 24 should be amended to....providing a plurality of stacked tiers of transfer plates each having....step 3, line 3 should read ...the underside of each transfer plate....step 5, line 1 should read ...engaging the mounting sleeves of the tips of the uppermost tier with....step 5, line 3,pipette tips in the uppermost transfer plate....an additional step is missing between steps 5 and 6....the missing step which should be inserted is....transferring and aligning the uppermost transfer plate and the push plate to a transfer position above said empty pipette tip holder, and..... The method claim 13 depends upon apparatus claim 23. It appears as if the claim should depend from method claim 24. The last phrase of claim 13 should be amended to read.....in the transfer plates... If applicant makes the above changes, it would appear that the 112 issues discovered by the examiner would be resolved. However, further searching/consideration would have to be given to determine if the claims are allowable over the prior art.


Jill Warden
Supervisory Patent Examiner
Technology Center 1700